



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 14, 1998

Mr. Nash J. Gonzales
Escamilla & Poneck
603 Navarro Street, Suite 1200
San Antonio, Texas 78205-1826

OR98-1661

Dear Mr. Gonzales:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116508.

The Edgewood Independent School District (the "district") received a request from the representative of a former district employee for information. You assert that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered your arguments and reviewed the records submitted.¹

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the governing body is or may be a party. The district has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The district must meet both prongs of this test for information to be excepted under section 552.103(a).

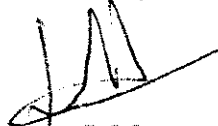
After reviewing the information submitted to this office, specifically a contested case styled as *Edgewood Independent School District v. Mary Linda Ramirez* Docket No. 088-

¹In reaching our conclusion here, we assume that the "representative samples" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

LH-498, we conclude litigation is pending, and that the requested information is related to that litigation. Open Records Decision No. 588 (1991). We therefore conclude the district may withhold the information under section 552.103.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/ch

Ref.: ID# 116508

Enclosures: Submitted documents

cc: Ms. Barb Tauber
TSTA Representative
Texas State Teachers Association
1407 North Main
San Antonio, Texas 78212
(w/o enclosures)